UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 2 4 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Article number: 7005 3110 0000 5939 5936

Mr. Keith Grossman, Director
Safety & Emergency Management
Brookdale University Hospital and Medical Center
One Brookdale Plaza
Brooklyn, NY 11212

RE: **Notice of Violation**
RCRA § 3007 Information Request Letter

Dear Mr. Grossman:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § § 6901 et seq.

Pursuant to RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), the EPA promulgated rules, regulations, and standards governing the handling and management of hazardous waste as set forth in 40 C.F.R. Parts 260-272. For the purposes of this Notice of Violation and Information Request, the hazardous waste regulations governing the generation of hazardous waste were promulgated in 1980 and amended by HSWA in 1984.

The State of New York is authorized by the EPA to conduct a hazardous waste program under Section 3006 of RCRA, 42 U.S.C. § 6926 and is authorized to enforce RCRA. The EPA has retained its authority to enforce the hazardous waste rules and regulations in the State of New York.

The Notice of Violation (NOV) portion of this letter (see Enclosure I) is issued pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by RCRA and HSWA, 42 U.S.C. § § 6901, 6928. Issuance of this NOV and compliance with its terms does not preclude EPA from taking formal enforcement action against you and/or your company, including a monetary penalty, under Section 3008 of RCRA, 42 U.S.C. § 6928, or any other applicable regulation or statute.

Pursuant to the provisions of Section 3007 of RCRA, 42 U.S.C. § 6927, EPA may require parties who handle or have handled hazardous waste to provide information relating to such wastes.

Pursuant to the statutory provisions cited above, EPA hereby requires that you provide the information requested in Enclosure II, using the instructions and definitions included in Enclosure III. This information is necessary to determine the compliance status of Brookdale University Hospital and Medical Center.

Please provide the information requested no later than (30) calendar days from receipt of this letter. Requests for additional time must be justified. Requests for additional time must be made within ten (10) calendar days of receipt of this letter. The response must be signed by a responsible official or agent of your company, using the form in Enclosure IV to this letter. Failure to respond to this letter truthfully and accurately within the time provided may subject you to sanctions authorized by federal law, including but not limited to a potential enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. 6928. Please also note that all information you provide may be used in an administrative, civil judicial, or criminal action.

The response to the request in the enclosure must be mailed to the following address:

Abdool Jabar
Environmental Engineer
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency- Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

You may, if you so desire, assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed with the legend, or other suitable form of notice, such as "trade secret," "proprietary," or "company confidential". The claim should set forth the information requested in 40 Code of Federal Regulations (40 C.F.R.) Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, challenge the confidentiality claim pursuant to the procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

This information request is not subject to the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. Part 3501 et seq.

Failure to respond in full to this requirement is a violation of RCRA and may result in federal enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, including the assessment of a monetary penalty. Such penalties may be up to $37,500 per day per violation.

For consistency, please provide your answers in a format which is keyed to the questions outlined in Enclosure II.

If you have any questions regarding this matter, please contact Mr. Abdool Jabar at (212) 637-4051 or jabar.abdool@epa.gov.

Sincerely yours,

Leonard Voo, Chief
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance

Enclosures: Enclosure I Notice of Violation
Enclosure II Information Request
Enclosure III Instructions & Definition
Enclosure IV Certification of Answers

cc: Russ Brauksieck, Supervisor
Hazardous Waste Compliance Unit
New York State Department of Environmental Conservation
625 Broadway, 11th Fl.
Albany, NY 12233-7020

ENCLOSURE I

On or about October 7 & 8, 2014, a duly authorized representative of the U.S. Environmental Protection Agency conducted a compliance evaluation inspection of Brookdale University Hospital and Medical Center located at One Brookdale Plaza, Brooklyn, NY 11212. At the time of the inspection, your facility was found to be out of compliance with regulations applicable to generators of hazardous waste. Based on observations made during the inspection, it was determined that the following violations of RCRA regulations existed at your facility:

1. Pursuant to 6 NYCRR § 372-2(a) (2), a person who generates a solid waste must determine whether that solid waste is a hazardous waste using the procedures specified in that provision.

At the time of the inspection, BUHMC did not make hazardous waste determinations on the following wastes:

(a) methanol in the pap smears vials which were autoclaved and sent out as regulated medical waste;
(b) acetone and alcohols used in the gram staining process that is pour down the drain at the end of the process;
(c) empty Arsenic Trioxide containers are disposed of as regulated medical waste;
(d) unused chemotherapy waste, cyclophosphamide is disposed of as regulated medical waste;
(e) broken fluorescent lamps found in two fiber containers.

2. Pursuant to 6 NYCRR § 372-2(a)(8)(ii), a small quantity generator may store hazardous waste in a container storage area provided the date upon which each period of generation begins is clearly marked and visible for inspection on each container.

At the time of the inspection, BUHMC stored eight 5 gallon containers and the accumulation start dates were not marked on the containers.

3. Pursuant to 6 NYCRR § 372-2(a)(8)(iv), a small quantity generator may store hazardous waste for 180 days unless the disposal facility is 200 or more miles away.

At the time of the inspection, BUHMC stored four 5 gallon containers for more than 180 days and disposal facilities were within 200 miles of the facility.

4. Pursuant to 6 NYCRR § 372-2(a)(8)(iii)(e)(2)(i), a small quantity generator must post the name and phone number of the emergency coordinator next to the telephone.

At the time of the inspection, the name of the emergency coordinator was not posted next to the telephone.

5. Pursuant to 6 NYCRR § 372-2(a)(8)(i)(a)(2), a small quantity generator must mark each container of hazardous waste in satellite accumulation areas with the words "Hazardous Waste" and with other words to describe their contents.

At the time of the inspection, BUHMC stored hazardous waste in the following areas and the containers were not marked with the words "Hazardous Waste" and other words to describe their contents:

(a) one 1 gallon container collecting waste from a thin prep processor;
(b) two 5 gallon containers collecting fixer, one 1/2 gallon container collecting lead foils and one 500 ml container accumulating mercury and silver amalgam in the dark room;
(c) one 1 gallon container in the grossing area which was labeled "Hazardous Waste" but did not have other words describing the contents.

6. Pursuant to 6 NYCRR § 373-3.9(d)(1), all containers except those in use must be closed.

At the time of the inspection, BUHMC stored lead foils in one ½ gallon container and the container was not closed.

7. Pursuant to 6 NYCRR § 373-3.9(f), the owner or operator of a hazardous waste facility must maintain aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility operation in an emergency unless aisle is not needed for any of these purposes.

At the time of the inspection, BUHMC did not have aisle space in their hazardous waste container storage area.

8. Pursuant to 6 NYCRR § 373-3.9(e), a small quantity generator must inspect hazardous waste containers in a hazardous waste container storage area and the storage area weekly.

At the time of the inspection, the facility representative stated that the containers and the hazardous waste container storage area were not inspected weekly for the past three years.

9. Pursuant to 6 NYCRR § 373-3.3(g)(1), a facility owner/operator must attempt to make arrangements as appropriate with local authorities (police, fire department) for the type of waste handled at the facility and the potential need for the services of these organizations.

At the time of the inspection, BUHMC did not attempt to make arrangements with the police and fire departments.

10. Pursuant to 6 NYCRR § 374-3.2(e)(5), a small quantity handler of universal waste must label each lamp or each container or package containing such lamps with the words "Universal Waste-Lamps" or "Waste Lamps" or "Used Lamps."

At the time of the inspection, BUHMC was storing fifteen fiber containers of spent fluorescent lamps in the Universal Storage Area and the containers were not labeled with the words "Universal Waste-Lamps" or "Waste Lamps" or "Used Lamps."

11. Pursuant to 6 NYCRR § 374-3.2(d)(i), small quantity handlers of universal waste must manage spent fluorescent light bulbs in containers or packages that are structurally sound, adequate to prevent breakage and compatible with the contents of the lamps. Containers or packages must be closed and show no evidence of leakage, spillage, or damage.

At the time of the inspection, BUHMC stored spent fluorescent lamps in two containers that were not closed.

12. Pursuant to 6 NYCRR § 374-3.2(f)(3), a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated by marking the accumulation start date, maintaining an inventory, or implementing another method.

At the time of the inspection, BUHMC did not mark the dates on fifteen containers of spent fluorescent lamps stored in the universal waste storage area, maintain an inventory, nor implement another method which clearly demonstrates the length of time from the date the lamps became a waste.

ENCLOSURE II

1. With regard to the violations cited in the above Notice of Violation (Enclosure I), please provide (1) a description of the actions taken to correct the violations cited and provide documentation, including photographs (where applicable), verifying that each violation has been corrected; or (2) a rebuttal of the violations.

The relevant time period for the following questions is October 2011 through the date of receipt of this letter, unless otherwise specified.

2. During the inspection, it was stated by your representatives that the unused chemotherapy hazardous waste (cyclophosphamide) was placed in containers and shipped off as regulated medical waste prior to October 2011. It was also stated that empty containers of Arsenic Trioxide (P012) were placed in regulated medical waste containers. Furthermore, your representatives stated that discarded thin prep vials containing methanol were autoclaved and sent out as regulated medical waste.

(a) When did you start to manage the unused cyclophosphamide, empty Arsenic Trioxide containers and discarded thin prep vials as hazardous waste?

(b) Estimate the quantity of unused cyclophosphamide, empty Arsenic Trioxide containers and discarded thin prep vials that were generated per month from October 2011 to the time the materials were handled as hazardous waste. For the cyclophosphamide, exclude the weight of the containers in your estimates.

(c) Provide copies of manifests or shipping papers used for each shipment of the unused cyclophosphamide, empty Arsenic Trioxide containers and discarded thin prep vials that was shipped off as regulated medical waste from October 2011 to the time wastes were handled as hazardous waste.

(d) Where were the unused cyclophosphamide, empty Arsenic Trioxide containers and discarded thin prep vials sent to, and what method of treatment did they undergo?

3. Prior to the inspection, were your employees trained in handling of universal and hazardous waste? If yes, please provide training records for the past three years and the training materials that were used to provide the training.

4. Prior to the inspection, BUHMC had not manifested off site any P-listed hazardous waste (examples of potential P-listed waste include nicotine gum wrappers, blister packs that contained warfarin tables). Did your facility generate any P-listed wastes other than Arsenic Trioxide? If yes, what P-listed wastes were generated, what amounts of each waste were generated on a monthly basis, and how were they disposed?

ENCLOSURE III
INSTRUCTIONS AND DEFINITIONS

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the company or facility. The signatory must complete and return the attached Certification of Answers to Responses to Request for Information.

2. A complete response must be made to each individual question in this request for information. Identify each answer with the number of the question to which it is addressed.

3. In preparing your response to each question, consult with all present and former employees and agents of the company or facility who you have reason to believe may be familiar with the matter to which the question pertains.

4. In answering each question, identify all contributing sources of information.

5. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.

6. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.

7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies.

8. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.

9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.

10. The company and/or facility for the purposes of this Request for Information is Brookdale University Hospital and Medical Center located at 1 Brookdale Plaza, Brooklyn, NY 11212.

11. A generator of hazardous waste for the purposes of this Request for Information shall be defined as any person (which includes this facility), by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation.

12. Solid waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(27) of RCRA, as amended, 42 U.S.C. Part 6903(27).

13. Hazardous waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(5) of RCRA, as amended, 42 U.S.C. Part 6903(5).

14. Manage shall be defined for the purposes of this Request for Information as to market, generate, treat, store, dispose or otherwise handle.

ENCLOSURE IV
CERTIFICATION OF ANSWERS

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to EPA's Request for Information, and all documents submitted herewith; that the submitted information is true, accurate, and complete; and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

_____
Name (print or type)

SIGNATURE _____

DATE _____

_____
TITLE